



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Employment Security Department

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

- ☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- ☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: This filing is part of the department's ongoing efforts to review and revise its rules when necessary as required by Executive Order 97-02. The rules are rewritten in clear language to improve their understandability and accessibility. Rules are also updated to correct statutory references, to reflect current procedures, and to eliminate references to statutes or programs that have been repealed.

Citation of existing rules affected by this order:

Repealed: WAC 192-110-210, 192-150-065, 192-240-0101, 192-240-035

Amended: WAC 192-110-005, 192-110-010, 192-110-020, 192-110-050, 192-130-080, 192-140-100, 192-150-110, 192-150-150, 192-150-200, 192-150-215, 192-150-220, 192-180-005, 192-180-010, 192-180-015, 192-180-025, 192-210-005, 192-240-020, 192-240-025, 192-240-030, 192-240-040, 192-310-020, 192-310-055, 192-310-060, 192-310-070

Suspended:

Statutory authority for adoption: RCW 50.12.010 and RCW 50.12.040

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 07-14-157 on July 5, 2007 (date).

Describe any changes other than editing from proposed to adopted version: The proposed amendment of WAC 192-310-010 is withdrawn.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: September 20, 2007

NAME (TYPE OR PRINT)

Karen T. Lee

SIGNATURE

TITLE

Commissioner

CODE REVISER USE ONLY

11/21
07-22-055

(COMPLETE REVERSE SIDE)

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-110-005 Applying for unemployment benefits — General. (1) How do I apply for benefits?

(a) ~~((File your application))~~ You may apply for benefits by:

(i) ~~((placing a telephone call))~~ Calling ~~((to))~~ the unemployment claims telecenter listed in your local telephone directory; or

(ii) Using the department's internet website. However, you must apply by telephone if you worked in any state other than Washington during the previous two years, or you were off work for 13 or more consecutive weeks because of injury or illness.

(b) ~~((In situations involving individuals with))~~ If you have a physical or sensory disability~~((ies))~~, or are in unusual circumstances that makes filing by telephone or internet difficult, ~~((or in other unusual circumstances,))~~ the commissioner ~~((can))~~ may authorize other methods ~~((for filing an application))~~ of applying for benefits.

(2) When can I apply?

(a) You may apply by telephone at any time between the hours of 8:00 a.m. and 5:00 p.m. (Pacific Time) Monday through Friday (excluding state holidays), even if you are working. To control workload, the department may assign certain days of the week on which you may file your claim by telephone.

(b) You may apply on the internet at any time.

(3) When is my claim effective? Your claim is effective on the Sunday of the week in which you file ~~((your claim))~~ it.

~~((3))~~ **(4) What information am I required to provide?** The minimum information needed to process your application is your:

(a) ~~((Your))~~ Legal name; and

(b) ~~((Your))~~ Social security account number.

You should also be prepared to provide the names, addresses, dates worked, and reasons for job separation for all of your employers during the past two years. Other information may be requested in individual circumstances.

~~((3))~~ **(5) Will I receive benefits immediately?** The first week you are eligible for benefits is your waiting week. You will not be paid for this week. However, you must file a claim for this week before we can pay you any benefits for future weeks ~~((can be paid to you))~~.

AMENDATORY SECTION (Amending WSR 99-15-069, filed 7/19/99, effective 8/19/99)

WAC 192-110-010 Applications for benefits by interstate claimants. (1) What is an "interstate claimant"? An "interstate claimant" is a person who files a claim for one state's unemployment benefits from another state. The state that pays your claim is called the "liable state." For example:

(a) You are an interstate claimant if you live in Oregon and file a claim from Oregon for benefits that will be paid by Washington.

(b) You are an interstate claimant if you live in Washington and file a claim in Washington for benefits that will be paid by Oregon.

(c) You are NOT an interstate claimant if you live in Oregon but file your claim for Washington benefits in Washington; this is because your claim was filed in the same state that will be paying your benefits.

(2) Where can I apply for benefits? You can ~~((file your application))~~ apply for benefits from any state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Canada. However, if you served in the military or earned wages in more than one state during the past two years, you must physically be in the state of Washington to apply for benefits against Washington.

(3) How do I apply for benefits?

~~((a))~~ ~~((Place a telephone call))~~ Call ~~((to))~~ the unemployment claims telecenter in Washington. ~~((You will be asked whether))~~ If you worked in any state other than Washington within the last two years ~~((This will))~~, an agent will help you decide which state will ~~((be))~~ pay ~~((ing))~~ your claim.

~~((a))~~ ~~((i))~~ If Washington will ~~((be))~~ pay ~~((ing))~~ your claim, we will take your application for benefits ~~((will be taken))~~ over the telephone;

~~((b))~~ ~~((ii))~~ If another state will ~~((be))~~ pay ~~((ing))~~ your claim, an agent will tell you ~~((will be told))~~ how to file your claim with that state.

~~((b))~~ If you worked only in Washington during the previous two years, you may apply for benefits on the internet.

(4) Who decides if I am eligible for benefits? Every state has its own laws which control eligibility for benefits. If you file a claim for Washington benefits, your eligibility for benefits will be decided by Washington state law even if you file from another state. If you file for benefits against another state, your eligibility for benefits will be decided under that state's laws.

(5) When can I apply for benefits? You can apply for benefits at any time, even if you are working. However, if you already have a valid claim in one state, you must continue with that claim as long as benefits are available before you can establish a new claim against another state ~~((can be established))~~. A "valid" claim is one that has not been denied, terminated, or the benefits exhausted (paid out).

(6) How do I file an appeal? If you wish to file an appeal about your claim, ~~((do so by filing))~~ you must file it directly with the state that is paying your claim (liable state):

(a) If Washington is paying your claim, use one of the filing methods listed in WAC 192-04-060. If mailed, your appeal will be considered filed on the postmarked date.

(b) If another state is paying your claim, mail your appeal directly to that state.

All appeal hearings will be conducted by the liable state ~~((by telephone))~~. The liable state will notify you of the date, time, and telephone number or location of the hearing.

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-110-020 How will the department verify my identity? When you ~~((file your application))~~ apply for benefits, we will ask you questions based on information in our records, such as your work history.

(1) If we ~~((are able to))~~ can verify your identity with these questions, we will file your application for benefits ~~((will be filed))~~.

(2) If we ~~((are-))cannot ((able to-))~~verify your identity through questioning, we will send you a verification ~~((request-))~~form:

(a) If you complete and return the verification form ~~((is completed, returned-))~~to the department, and it provides satisfactory evidence of your identity, your claim will be effective based on the date of your first telephone call;

(b) If you do not complete or return the verification form~~((is not completed and returned))~~, or it does not satisfy the department of your identity, we will deny your benefits~~((will be denied))~~.

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-110-050 How do I reopen my claim? (1) If you do not file a claim for one or more weeks, you must reopen your claim.

(a) If it has been fewer than four weeks since you last claimed, you must reopen your claim by ~~((placing a telephone))~~ calling ~~((to-))~~the unemployment claims telecenter and asking an agent to ~~((have))~~reopen your claim~~((reopened))~~.

(b) If you have not claimed benefits for four or more weeks, you may reopen your claim on the internet. However, you must do so before the last working day of the week (which is usually Friday). Otherwise you must call the unemployment claims telecenter and speak to an agent to reopen your claim.

(2) Your claim will be reopened effective on Sunday of the week in which you contact the department. ~~((B))~~You cannot receive benefits ~~((will be denied-))~~for any prior weeks ~~((preceding the week in which you reopened your claim,-))~~unless you can show good cause for not reopening your claim earlier.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-130-080 Procedure — Separation issues. (1) ~~((No))~~The department will not make a decision on a separation issue (RCW 50.20.050((-50.20.060,-)) or 50.20.066) ((will be issued-))until both ~~((parties to the separation))~~the employer and the claimant have had an opportunity to present information and rebuttal, if necessary and appropriate, ~~((on the matters at issue))~~about the separation.

(2) If an employer does not respond ~~((within ten days-))~~to the notice within ten days as required by WAC 192-130-060, the department may make a decision at that time based on available information.

(3) If the employer mails separation information to the unemployment claims telecenter identified on the notice~~((department receives information from the employer))~~ after the end of the ten day response period, but before the decision has been made, ~~((the))~~the department will consider that information ~~((provided by the employer will be considered-))~~before making ~~((the))~~a decision~~((if the information was mailed to the unemployment claims telecenter identified on the notice))~~.

(4) If the ~~((department receives))~~ employer submits separation information ~~((from the employer after the end of the ten day period and))~~ to the department within thirty days ~~((following the mailing of))~~ after a decision has been mailed, the department will consider that information for the purposes of a redetermination under RCW 50.20.160 or as an appeal of the decision.

(5) Any information received within thirty days of the mailing of the notice required by WAC 192-130-060 will be considered a request for relief of benefit charges under RCW ~~((50.29.020 or))~~ 50.29.021.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-140-100 What happens if I do not respond to a request for information ~~((regarding))~~ about a discharge from work? (1) If you do not respond to a request for information ~~((regarding))~~ about a discharge from work and have not ~~((provided sufficient))~~ given the department enough information to identify or contact the employer, the department will presume ~~((you were))~~ the employer discharged you for misconduct connected with the work. ~~((For claims with an effective date prior to January 4, 2004, benefits will be denied under RCW 50.20.060. For claims with an effective date of January 4, 2004, and later, b))~~ Benefits will be denied under RCW 50.20.066. If you have ~~((provided))~~ given the department ~~((with sufficient))~~ enough information to contact the employer, benefits will not be denied unless the employer ~~((establishes))~~ shows by a preponderance of evidence that you were discharged for misconduct connected with your work.

(2) This denial is for an indefinite period of time and will continue until you meet the requalification provisions of RCW ~~((50.20.060 or))~~ 50.20.066 ~~((, as applicable))~~.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-110 Mandatory military transfers — RCW 50.20.050 (2)(b)(iii). (1) Any military transfer ~~((will be))~~ is considered mandatory if your spouse receives orders from the military to relocate to a new duty station, regardless of whether the transfer is temporary or permanent.

(2) You may ~~((establish))~~ show good cause to quit work if you relocate for your spouse's employment that was due to a mandatory military transfer if:

(a) Your spouse's new duty station is outside your existing labor market. ~~((and))~~ For claims with an effective date prior to July 2, 2006, the new duty station must be in Washington or another state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) that allows benefits to individuals who quit work to accompany their military spouse; and

(b) You ~~continued~~ ~~((to))~~ continued ~~to work~~ ~~((for))~~ for your previous employer ~~((ment))~~ for as long as was reasonable prior to the move.

(3) For purposes of this section, the term "military" includes the following: U.S. Navy, U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, activated reserve members of any of these service branches, activated members of the National Guard, commissioned officers

of the National Oceanographic and Atmospheric Administration, and commissioned officers of the regular or reserve corps of the U.S. Public Health Service.

(4) ~~((The department will maintain a list of states that allow unemployment benefits to an individual who quits to accompany a military spouse. This list will be updated at least annually.~~

~~(5))~~ Good cause for quitting work is not established under this section if:

(a) You quit work to return to your home of record or to another location rather than accompanying your spouse to a new duty location; or

(b) Your spouse leaves military service and you elect to relocate to your home of record or elsewhere.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-150 When is a separation considered a refusal of new work? (1)

Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 ~~((prohibit the denial of))~~ state that you cannot be denied benefits ~~((to individuals who))~~ if you refuse to accept new work when the wages, hours, or other working conditions ~~((of work))~~ are substantially less favorable ~~((to the individual))~~ than those prevailing for similar work in ~~((the locality))~~ your local labor market.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When your employer changes your pay, hours, or conditions of work in a manner that does not constitute good cause under RCW 50.20.050(2), the department will ~~((determine whether))~~ decide if the change ~~((constitutes))~~ is an offer of new work. If it ~~((does))~~ is, the department will also ~~((determine))~~ decide if the new work is substantially less favorable than similar work in your local labor market ~~((area))~~.

(a) If the department ~~((determines))~~ decides the change constitutes an offer of new work, and the new work is substantially less favorable, the department will treat the separation ~~((will be treated))~~ as a layoff due to lack of work and adjudicate the issue of the refusal of new work ~~((adjudicated))~~ under RCW 50.20.080.

(i) The department will adjudicate the refusal of new work ~~((will be adjudicated))~~ even if you have not claimed benefits for the week in which ~~((the refusal occurred))~~ you refused the new work; and

(ii) The employer offering the new work is an interested party to the work refusal decision.

(b) If the department ~~((determines))~~ decides the change ~~((does))~~ is not ~~((constitute))~~ an offer of new work, or the new work is not substantially less favorable, it will adjudicate the separation from work ~~((will be adjudicated))~~ as a voluntary quit under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate.

(4) If the ~~((reduction in))~~ employer reduces your pay or hours ~~((is))~~ by ten percent or less, the department will presume that it is not substantially less favorable and adjudicate the

separation under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate. You can overcome this presumption by providing additional information to the department (~~to support a finding~~) that shows the job was not suitable as provided in RCW 50.20.110.

(5) If you continue working for your employer after being notified of the change(s) in working conditions, the department will consider that you have agreed to the new terms and conditions of employment and have accepted the offer of new work. If you (~~(subsequently)~~) later quit work because of these changes, the department will consider that you have voluntarily left work for personal reasons. This provision does not apply when you give notice of your intent to quit work upon being notified of the change(s) in working conditions and simply continue to work during an agreed upon notice period. In addition, you may continue working during an employer-provided grievance or arbitration period in response to the change in working conditions without the department considering that you have accepted the new work.

(6) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. (~~Whether~~) The department will decide if a wage rate is prevailing for your labor market area (~~(will be determined)~~) based on information provided by (~~(the department's)~~) its labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantially less favorable" means the work is materially reduced below the standard under which the majority of individuals in your occupation and labor market area customarily work, or the work would have a significantly unfavorable impact on you.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-200 General provisions — Misconduct and gross misconduct — RCW 50.04.294 and 50.20.066. (1) The action or behavior that resulted in your discharge or suspension from employment must be connected with your work to constitute misconduct or gross misconduct.

(2) (~~(¶)~~) For purposes of this section, the action or behavior (~~(must)~~) is connected with your work if it results in harm or creates the potential for harm to your employer's interests. This harm may be tangible, such as damage to equipment or property, or intangible, such as damage to your employer's reputation or a negative impact on staff morale.

(3) RCW 50.04.294, subsections (1)(c) and (3)(b), will be distinguished as follows:

(a) Subsection (1)(c) "Carelessness or negligence that causes or would likely cause serious bodily harm to your employer or fellow employee" means that your action results in

serious bodily injury or a reasonably prudent person would know it is likely to result in serious bodily injury.

(b) Subsection (3)(b) "Inadvertence or ordinary negligence in isolated instances" means that your action is an accident or mistake and is not likely to result in serious bodily injury.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-215 Discharges for ~~((felony or gross misdemeanor or for))~~gross misconduct — Responsibility for providing information. In any job separation where there is a potential disqualification under RCW ~~((50.20.065 or))~~50.20.066(3), the employer is responsible for notifying the department in a timely manner ~~((of any resolution of issues))~~when the issue is resolved.

If an employer notifies the department of a potential disqualification under RCW ~~((50.20.065 or))~~50.20.066(3) within ten days of receiving the notice required by WAC 192-130-060, the department will review the claimant's eligibility for benefits.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-220 Discharges for gross misconduct—Definitions—Canceling wage credits~~((or for felony or gross misdemeanor))~~. (1) ~~((Effective dates. The provisions of RCW 50.20.065 will apply to claims with an effective date prior to January 4, 2004. The provisions of RCW 50.20.066 will apply to claims with an effective date of January 4, 2004, and thereafter.~~

~~((2))~~**Definitions.**

(a) "Criminal act" means every action defined as a crime by the applicable state or federal statutes, including felonies and gross misdemeanors.

(b) "Felony" means every crime that is defined as such by the applicable state or federal statutes.

(c) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(d) A "competent authority" is:

(i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency; or

(ii) An administrative law judge; or

(iii) A regulatory agency or professional association charged by law with maintaining professional standards or codes of conduct; or

(iv) Any other person or body, other than your employer, with authority to administer disciplinary action against you.

(e) An admission to your employer or to an employee of the department that you have committed a criminal act is not considered an admission to a competent authority for the purposes of RCW ~~((50.20.065 and))~~50.20.066.

~~((3))~~**(2) Canceling wage credits.**

(a) ~~((For claims with an effective date prior to January 4, 2004: If you have been discharged because of a felony or gross misdemeanor connected with your work of which you have been convicted or have admitted committing, all your hourly wage credits based on that employment since the beginning of your base period will be canceled.~~

~~((b) For claims with an effective date of January 4, 2004, and later:))~~ If you have been discharged for gross misconduct connected with your work:

(i) The department will cancel all your hourly wage credits based on that employment since the beginning of your base period~~((will be canceled))~~;

(ii) If your wage credits with this employer are fewer than 680 hours, the balance of wage credits up to 680 hours will be canceled proportionately among your base period employers according to each employer's share of your base period wages. Wages from each employer will be removed from the most recent quarter in which wages were reported.

~~((e))~~ (b) Wage credits may only be canceled based upon an admission of a criminal act if:

(i) You admit to each and every element of a criminal act which caused you to be discharged; and

(ii) The admission is made to a competent authority.

AMENDATORY SECTION (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

WAC 192-180-005 Registration for work — RCW 50.20.010(1) and 50.20.230. (1)
Am I required to register for work? You must register for work unless you are:

(a) Attached to an employer, meaning you are:

(i) ~~((p))~~ Partially unemployed as defined in WAC 192-180-013(1); ~~((or e))~~

(ii) On standby as defined by WAC 192-110-015((;));

(iii) Unemployed because you are on strike or locked out from the worksite as provided in RCW 50.20.090(2); or

(iv) ~~((p))~~ Participating in the shared work program under ((Title))Chapter 50.60 RCW;

(b) A member of a ~~((full-referral-))~~ union that participates in the referral union program (see WAC 192-210-110);

(c) Participating in a training program approved by the commissioner; or

(d) The subject of an antiharassment order. This includes any court-issued order providing for your protection, such as restraining orders, no contact orders, domestic violence protective orders, and similar documents.

(2) How soon do I have to register?

(a) If you live within the state of Washington, the department will register you automatically based on information contained in your application for benefits. In unusual circumstances where you are not automatically registered, you must register within one week of the date on which you are notified by the department of the requirement to register for work.

(b) If you live in another state, you must register for work within one week of the date your first payment is issued on your new or reopened claim.

(3) Where do I register for work? You will be registered for work with your local ~~((employment center))~~ WorkSource office. However, if you live in another state, you must register for work with the equivalent public employment agency in that state.

(4) **What is the penalty if I do not register for work?** You will not be eligible for benefits for any week in which you are not registered for work as required by this section.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-010 Job search requirements — Directives — RCW 50.20.010 (1)(c) and 50.20.240. (1) **Do I have to look for work?** You must be actively seeking work unless you are:

- (a) Attached to an employer; or
- (b) Participating in a training program approved by the commissioner(~~;~~ ~~or~~
- (c) ~~Unemployed due to strike or lockout as provided in RCW 50.20.090(2))~~.

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1).

(3) **What are my weekly job search requirements?**

- (a) At a minimum, you must:
 - (i) Make job search contacts with at least three employers each week; or
 - (ii) ~~((If your claim is effective prior to January 4, 2004, participate in an approved in-person job search activity at the WorkSource office or local employment center; or~~
 - (iii) ~~If your claim is effective January 4, 2004 or later, p))~~ Participate in three approved in-person job search activities at the WorkSource office or local employment center, or any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

(c) If you are a member of a ~~((full-))~~referral union you must be ~~((in good standing))~~registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see WAC 192-210-120). Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) **What is a "job search contact"?** A job search contact is a contact with an employer to inquire about or apply for a job. You may use job search methods that are customary for your occupation and labor market area, including in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department ~~((determines))~~decides the contact is designed in whole or in part to avoid meeting the job search requirements.

(5) **What is an "in-person job search activity"?** This is an activity provided through the WorkSource office or local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided by WorkSource staff and approved by the local WorkSource administrator. For claimants residing in Washington State, an in-person job search activity must be documented in the department's services, knowledge and information exchange system (SKIES) to qualify. For interstate claimants, the activity must be documented in the one-stop system in the state in which you reside.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3).

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
 - (b) Change your method of ~~((seeking))~~ looking for work (such as from resumes to in-person contacts);
 - (c) Expand the geographic area in which you ~~((r job search is conducted))~~ look for work;
- or
- (d) ~~((Seek))~~ Look for work in a secondary occupation.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-015 Tracking job search activities — RCW 50.20.240. (1) **Do I need to keep track of my job search activities?** You must keep a record or log of your job search contacts and the in-person job search activities you receive through the WorkSource office or local employment center unless you are:

- (a) A member of a full referral union;
- (b) Allowed benefits because you left work to protect yourself or a member of your immediate family from domestic violence or stalking as provided in RCW 50.20.050 ~~((1)(b)(iv) or))~~ ~~((1)(b)(iv) or))~~ (2)(b)(iv); or
- (c) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

- (a) For job search contacts, record the date contact was made; the employer's name, address and telephone number; the type of contact (in-person, telephone, etc.); the name of the person you contacted; and the type of work you applied for ~~((; and the results of your contact))~~;
- (b) For in-person job search activities at the WorkSource office or local reemployment center, record the date contact was made; and a description of the services you received or the activities in which you participated ~~((; and the results of your contact))~~.

(3) **Is there a specific form I must use?** The department will supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or tracking method as long as you record all information required by this ~~((sub))~~ section ~~((is recorded))~~.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year or thirty days after receiving your final payment on any extension of benefits, whichever is later.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-025 Job search review interviews. (1) **What is a job search review (JSR) interview?** The JSR is an interview between you and a representative of the WorkSource office or local employment center. Its purpose is to review your job search documentation, identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job search efforts. For interstate claimants, this interview may be conducted by telephone or by the local employment center in a contracted state.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

(3) **How many weeks will be reviewed?**

(a) The interviewer will review at least one week of your job search documentation. If the job search documentation is unsatisfactory, or you fail to appear for the JSR interview without being excused, you will be scheduled for a second interview in which all weeks claimed will be reviewed.

(b) If you are excused from attending the initial JSR interview, you will be rescheduled for a review of one week of your job search documentation.

~~((e))~~ (4) **When may I be excused from attending the initial JSR?** You may be excused from attending the initial JSR interview ~~((as-scheduled-))~~ only for the following reasons:

~~((i))~~ (a) Jury duty;

~~((ii))~~ (b) National Guard duty;

~~((iii))~~ (c) Natural disaster or acts of nature; or

~~((iv))~~ (d) Verifiable employment or a job interview.

~~((4))~~ (5) **What does "all weeks" mean?** For purposes of this section, "all weeks" means the latest of the following:

~~((i))~~ Weeks claimed since January 4, 2004;

~~((ii))~~ (a) Weeks claimed since you filed your application for benefits; or

~~((iii))~~ (b) Weeks claimed since your last JSR interview, if applicable.

~~((4))~~ (6) **Do I need to bring anything else to the JSR interview?** You must be prepared to present proof of your identity during the JSR interview. This includes:

(a) State or government issued photo identification; or

(b) Two of the following government-issued documents:

(i) Voter's registration card;

(ii) U.S. military identification card or draft record;

(iii) Military dependent's identification card;

(iv) U.S. Coast Guard merchant mariner card;

(v) Native American tribal document;

(vi) U.S. social security card;

(vii) Certification of birth abroad issued by the U.S. Department of State;

(viii) Original or certified copy of a birth certificate;

- (ix) U.S. citizen ID card;
- (x) ID card for use of resident citizen in the United States; or
- (xi) Unexpired employment authorization document issued by the United States citizenship and immigration services (~~((formerly the Immigration and Naturalization Service)))~~(USCIS).

AMENDATORY SECTION (Amending WSR 02-19-009, filed 9/5/02, effective 10/6/02)

WAC 192-210-005 Definitions — Educational employees. (1) Contract. An agreement that is binding on an educational institution to provide work and on an individual to perform services.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full-time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.~~((150.220))~~405.210 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-020 Suitable work provisions — ~~((Regular shareable and e))~~Extended benefits — RCW 50.22.020 (3) and (4). (1) An individual receiving benefits must be available for suitable work. Except as provided in subsection (2), any job is considered suitable ~~((for an individual))~~if you are receiving ~~((regular shareable or))~~ extended benefits unless:

- (a) It is not within your capabilities;
- (b) The position is vacant because of a labor dispute, working conditions are substantially less favorable than similar work in the area, or you would be required to join or resign from a union or labor organization (see RCW 50.20.110);
- (c) The gross weekly pay is less than your weekly benefit amount, plus any supplemental unemployment benefits you receive from your former employer; or
- (d) The job pays less than the higher of the federal or state minimum wage.

(2) If you can ~~((demonstrate))~~show that you have good prospects of returning to work in your customary occupation within a reasonably short period of time, suitable work is considered to be work in keeping with your prior work experience, education, or training. "Good prospects for work" means you have:

- (a) A definite recall or hire date within four weeks; or
- (b) A probable recall or hire date within four weeks, based on an extremely favorable position on a union out-of-work list, seasonal factors, or historical experience.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-025 Failure to apply for or accept suitable work — RCW 50.22.020
(4)(b) — ~~((Regular shareable and e))~~Extended benefits. (1) You will be denied ~~((regular shareable or))~~extended benefits if you fail:

- (a) To accept any offer of suitable work as defined in WAC 192-240-020; or
 - (b) To accept a referral, or to apply for suitable work, when referred by your local employment center, if the job was:
 - (i) Offered to you in writing, or
 - (ii) Listed with the department.
- (2) The denial is for the week in which the refusal occurs and until you work in four weeks and earn four times your weekly benefit amount.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-030 Job search requirements to receive ~~((regular shareable or))~~ extended benefits — RCW 50.22.020(5). (1) To be eligible for ~~((regular shareable or))~~ extended benefits, you must show evidence of a systematic and sustained effort to find work. Your efforts must be of a quality and frequency that clearly indicate you are making sincere efforts to immediately return to gainful employment.

(a) At a minimum, your efforts must include at least four job search contacts with employers during each week you claim benefits.

(b) If you are a registered member ~~((in good standing))~~ of a referral union, you must make three job search contacts each week in addition to contacting your union and complying with the union's requirements.

(i) Registration with another union local can constitute one job search contact if you are willing to travel or relocate to accept work in their jurisdiction.

(ii) You do not have to look for work that would jeopardize your union membership, but must look for other work you are capable of doing.

(iii) If you have been identified by the department as having good prospects of returning to work within four weeks because you have an extremely favorable position on the union out-of-work list, contact with your union each week ~~((fulfills))~~meets the job search requirements of this section.

(2) Every week you file a claim for ~~((regular shareable or))~~ extended benefits, you must report your job search contacts to the department. For each job search contact you must report the date of the contact, the employer or union involved and its place of business, the method of contact, and the type of work sought ~~((, and the results of the contact))~~.

(3) You must keep a record or log of your job search contacts which contains the information required by WAC 192-180-015.

(4) The department may review your job search activities at any time. You must provide the department with a copy of your job search log upon request. Employer contacts will be verified by the department as needed.

(5) The department will consider you to have met the job search requirements of this section and of RCW 50.22.020(5) for any week in which you participate in a training program that is approved by the commissioner.

(6) The job search requirements under this section and RCW 50.20.020(5) are waived for any week in which you are unable to conduct a job search because you are serving on jury duty. See RCW 50.20.117.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-240-040 Penalties. (1) If you claim ~~((regular shareable or))~~ extended benefits during a week in which you failed to accept any offer of work, or failed to accept a referral or apply for any work as directed by the department:

(a) Benefits will be denied under RCW 50.20.080 if the work was suitable as defined by RCW 50.20.100 and 50.20.110, and you did not have good cause for failing to apply for or accept work;

(b) If benefits are denied as provided in subsection (1)(a), you will also be denied benefits as provided in RCW 50.22.020;

(c) Benefits will be denied under only RCW 50.22.020 if the work was suitable as provided in that statute and WAC 192-240-020, but did not meet the provisions of RCW 50.20.100 and 50.20.080.

(2) If you claim ~~((regular shareable or))~~ extended benefits during a week in which you failed to meet the job search requirements of WAC 192-240-030, benefits will be denied under RCW 50.22.020, except as provided in subsection (4).

(3) A denial of benefits under RCW 50.22.020 starts the week in which the failure occurs, and continues indefinitely until you show that:

(a) You have worked in at least four weeks; and

(b) You have earned at least four times your weekly benefit amount. The employment does not need to be covered by Title 50 RCW.

(4) If you fail to meet the job search requirements of WAC 192-240-030 because you are hospitalized for treatment of an emergency or life-threatening condition, benefits will be denied under RCW 50.20.010 (1)(c). The denial period is only for the week or weeks in which the hospitalization occurred.

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-020 Tax payments by employers — RCW 50.24.010. (1) Taxes ~~((are payable quarterly))~~ must be paid each quarter. Each quarterly payment must include the taxes ~~((due))~~ owed on all wages paid during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which ~~((such))~~ taxes ~~((have accrued))~~ are due. Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Sunday or a legal holiday, the tax payment must be received or postmarked on the next ~~((working))~~ business day.

(2) Tax payments are due immediately when an employer ~~((ceases))~~ goes out of business or the account is closed by the department. Taxes not paid immediately are delinquent~~((, but))~~. However, interest will not ~~((accrue))~~ be added until the first day of the second month following the end of the calendar quarter for which ~~((such))~~ the taxes ~~((have accrued))~~ are owed.

AMENDATORY SECTION (Amending WSR 00-01-166, filed 12/21/99, effective 1/21/00)

WAC 192-310-055 Employer records — Farm operator or farm labor contractor — RCW 50.12.070. ~~((The commissioner requires e))~~ Every employer is required to keep true and accurate employment records~~((under chapter 50.12 RCW))~~.

(1) Farm operators~~((, or))~~ and farm labor contractors must ~~((comply with the rules set forth in))~~ keep the records required under WAC 192-310-050.

(2) Farm operators who contract~~((ing))~~ with a crew leader or a farm labor contractor must ~~((make,))~~ keep~~((, and preserve,))~~ original records containing the following information:

- (a) The ~~((inclusive))~~ beginning and ending dates of the contract;
- (b) The types of services performed;
- (c) The number of persons performing such services;
- (d) The name of the contractor or crew leader; and
- (e) Evidence ~~((of))~~ the farm labor contractor~~((s))~~ is licensed as required ~~((under))~~ by chapter 19.30 RCW.

AMENDATORY SECTION (Amending WSR 99-20-129, filed 10/6/99, effective 11/6/99)

WAC 192-310-060 Tips as wages. ~~((For the department to make timely and accurate employer liability determinations and unemployment insurance payments, t))~~ "Tips as wages"~~((;))~~ are those tips ~~((that))~~ an employee is required to report to the employer by federal law.

(1) The employer must report tips each quarter on an "as paid" basis. Tips are considered ~~(("))~~ paid~~(("))~~ when the employee reports them to the employer for federal income tax purposes; or when they are distributed by the employer to the employee.

(2) Tips ~~((are not considered wages for benefit calculation purposes when))~~ will not be treated as wages when an individual's benefits are calculated if the individual did not report their value ~~((has not been reported))~~ to the employer.

AMENDATORY SECTION (Amending WSR 99-20-130, filed 10/6/99, effective 11/6/99)

WAC 192-310-070 Value of meals, lodging and in((-)) kind compensation – Payment by means other than cash – RCW 50.04.320. ~~((Relates to compensation paid for personal services including commissions and bonuses and the cash value of all remuneration paid in any form other than cash.))~~

(1) ~~The employer should not report the value of meals ((and/))or lodging provided to an employee for the convenience of the employer (((i.e. provided by the employer, on the employer's premises, or as a condition of employment) is not considered reportable compensation,))unless ((it comprises))the value equals twenty-five percent((;)) or more((;)) of the employee's total pay ((per))during a pay period. Meals or lodging provided on the employer's premises or as a condition of employment will be considered as provided for the convenience of the employer.~~

(2) ~~Compensation for personal services paid in((-)) kind((-or)) (in any ((medium))form other than cash), will be given its current prevailing market value. This value will be ((considered))treated as wages in computing the unemployment insurance taxes that are due((under unemployment insurance laws)). If ((any))the value of an item is set by a hiring contract((fixes the value of such items)), the ((value))department will ((be considered))treat the value set by the contract as the actual value.~~

REPEALERS

The following sections of the Washington Administrative Code are hereby repealed:

WAC 192-110-210	Claim cancellation.
WAC 192-150-065	What constitutes an employer-initiated mandatory transfer under RCW 50.20.050(1)(b)(iii)?
WAC 192-240-010	Regular shareable benefits defined.
WAC 192-240-035	How to qualify for regular shareable or extended benefits after leaving work for marital or domestic reasons—RCW 50.22.020(7).